



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 23, 2014

Ms. Heather Silver  
Assistant City Attorney  
City of Dallas  
1500 Marilla Street, Room 7DN  
Dallas, Texas 75201

OR2014-16902

Dear Ms. Silver:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 536960.

The City of Dallas (the "city") received a request for several categories of information pertaining to named members and specified meetings of the Dallas Fire-Rescue Department. You state you have released some information to the requestor and you have redacted information subject to section 552.117 of the Government Code and information pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> Although you take no position as to whether the submitted information is excepted under the Act, you indicate the release of some of the submitted information may implicate the proprietary interests of the Dallas Police and Fire Pension System (the "system"). Accordingly, you state, and provide documentation showing, you notified the system of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party

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<sup>1</sup>Section 552.117 of the Government Code excepts from disclosure the home addresses and telephone numbers, social security numbers, emergency contact information, and family member information of current or former officials or employees of a governmental body. *See* Gov't Code § 552.117. Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold certain categories of information without the necessity of seeking a decision from the attorney general. *See* ORD 684.

to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

Initially, we note, and you acknowledge, the city failed to comply with section 552.301(b) of the Government Code in seeking an open records decision from this office. *See* Gov't Code § 552.301(b). We note the city also failed to comply with its fifteen-business-day deadline under section 552.301(e) of the Government Code. *See id.* § 552.301(e). A governmental body's failure to comply with the procedural requirements of the Act results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 319 (1982). The presumption that information is public under section 552.302 can be overcome by demonstrating that the information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). Because third-party interests can provide a compelling reason for non-disclosure, we will consider whether any of the information at issue may be withheld on behalf of the system.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from the system explaining why its information should not be released. Therefore, we have no basis to conclude the system has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the city may not withhold any of the information at issue on the basis of any proprietary interest the system may have in it. As you raise no further exceptions to disclosure, the city must release the submitted information to the requestor.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Abigail T. Adams  
Assistant Attorney General  
Open Records Division

ATA/ac

Ref: ID# 536960

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Josh Mond  
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Dallas, Texas 75219  
(w/o enclosures)